

**MISSOURI DEPARTMENT OF TRANSPORTATION
GENERAL SERVICES
JOPLIN, MISSOURI**

**LAWN MOWING SERVICES
RFB-D7-08-069**

The Missouri Highways and Transportation Commission (Missouri Department of Transportation – MoDOT) is requesting bids from vendors for the purpose of providing Lawn Mowing services at the District Office.

**SECTION (1):
GENERAL DESCRIPTION AND BACKGROUND**

1. Request for Bid: This document constitutes a RFB from qualified organizations to provide Lawn Mowing Services at the Missouri Department of Transportation (MoDOT) District Office.

2. Fiscal Year: This fiscal year runs from July 1, 2007 to June 30, 2008.

3. Contract Period: April 1, 2008 to October 31, 2009, or when the grass ceases to grow and mowing is no longer needed for the season.

4. Renewals: The MHTC shall have the right, at its sole option, to renew the contract for Two (2) additional one-year periods, or any portion thereof. In the event the MHTC exercises such right, all terms and conditions, requirements and specifications of the contract, including all prices, shall remain the same as specified in this bid and apply during the renewal period(s).

5. Touring of Grounds: Potential Bidders may attend a tour of Missouri Department of Transportation grounds at the 3901 E. 32 Street, Joplin MO. See Event Schedule (page 2) for date and time.

The purpose of the tour is to allow potential Bidders and Opportunity to inspect the grounds prior to submitting a bid. **POTENTIAL BIDDERS SHALL NOT BE PERMITTED TO SCHEDULE A TOUR AT A DIFFERENT TIME OR DATE.** An attendance record will be kept.

Each Bidder is solely responsible for the prudent and complete personal inspection, examination, and assessment of the work site(s) condition, facilities and/or any other existing condition, factor or item that may affect or impact on the performance of service described and required by the contractual requirements. The Bidder shall not be relieved of responsibility for performance under the contract for any reason whatsoever, including, but not limited to, (1) the Bidders failure to observe existing conditions, etc.

6. Pre-Bid Conference: A pre-bid conference regarding this Request for Bid will be held on **March 13, at 1:00 p.m.**, at District 7 General Service Building, 3901 E. 32nd Street, Joplin, MO 64804. All potential Bidders are strongly encouraged to attend this conference, since information relating to this RFB will be discussed in detail. Bidders should bring a copy of the RFB since it will be used as the agenda for the pre-bid conference.

7. RFB Schedule of Events: The following RFB schedule of Events represents MoDOT's best estimate of the schedule that shall be followed. Unless otherwise specified, the time of day for the following events shall be between 7:30 a.m. and 4:00 p.m. Central Daylight Time.

MoDOT reserves the right at its sole discretion to expand this schedule, as it deems necessary, without any notification except for the deadline date for submitting bids.

EVENT	DATE	TIME
MoDOT Issues RFB	March 6, 2008	4:00 PM CDT
Ground Tour	March 13, 2008	2:00 PM CDT
Pre-Bid Conference	<u>March 13, 2008</u>	<u>1:00 PM CDT</u>
Deadline for written Comments	March 17, 2008	1:00 PM CDT
Deadline for MoDOT's Issuing Responses to Written comments	March 19, 2008	1:00 PM CDT
Deadline for Submitting Bid	March 25, 2008	1:00 PM CDT
<u>Recommendation of Award</u>	March 26, 2008	1:00 PM
Contractual Effective Date	First day of the month after award of Contract: 4/1/08	

8. Clarification of Requirements: Any and all questions regarding specifications, requirements, competitive procurement process, or other questions must be directed to Chris Stephens, Missouri Department of Transportation, 3901 E. 32nd Street, Joplin MO 64804, (417) 629-3404 (phone) or Christina.Stephens@modot.mo.gov. (Email). All written questions must be addressed to Chris Stephens no later than 1:00 p.m. CDT, March 17, 2008. Once all the questions are gathered, MoDOT will issue an addendum and post the responses to all questions on-line for vendors to retrieve.

http://www.modot.mo.gov/business/contractor_resources/gs_bidding/GeneralServices.htm

9. All bids must be received no later than 1:00 p.m., CST, March 25, 2008 at the General Services Building located at 3901 E. 32nd Street, Joplin MO, 64804.

**SECTION (2):
SCOPE OF WORK**

1. GENERAL REQUIREMENTS

Provide lawn-mowing services as specified herein for the Missouri Highway and Transportation Commission (hereinafter referred to as the Commission) in a manner consistent with professional lawn mowing practices and to the complete satisfaction of the Commission.

2. PERSONNEL REQUIREMENTS

- A. The contractor shall be responsible for all supervision required to satisfactorily perform the requirements of the contract.
- B. The contractor shall name in writing a designated representative and alternate available to the Commission. The Contractor shall also supply address and telephone number of the contact person and an alternate.

3. INVOICING

- A. Invoices may be submitted weekly or monthly at the contractor's discretion. Invoices shall be submitted directly to the commission's representative Mendi Allgood.

4. EQUIPMENT AND SUPPLY REQUIREMENTS

- A. Side discharge mowers are not allowed. However, a bagger or mulching blades may be used to avoid side discharge.
- B. The contractor shall be held responsible for any breakage, damage and or personal property belonging to motorists and/or pedestrians along adjacent city and state roads while working on the Commission's premises.
- C. The contractor must furnish and maintain, with safety devices intact, any equipment necessary to perform this contract.
- D. The contractor may either own or rent, at the contractor's expense, equipment for performing the requirements of the contract.
- E. The contractor shall furnish all necessary supplies.
- F. The contractor shall not use any products, supplies or equipment, which may be injurious or damaging to the people who use this facility.

5. DAMAGE REQUIREMENTS

- A. The contractor shall be held responsible for any breakage, damage and/or loss of personal property belonging to employees of the Commission through negligence and/or other inappropriate actions of the contractor or the contractor's employees while working on the Commission's premises.
- B. Notify immediately of any damage.
- C. Notify and correct any damage regarding any fuel or oil spillage.

6. INSURANCE:

Prior to beginning of work the contractor shall furnish the Commission with the following insurance coverage and such coverage shall be kept in effect during the agreement period. The Contractor shall purchase and maintain such insurance as will protect him from claims under workmen's compensation acts and other employee benefit acts, from claims for damages because of bodily injury, including death, and from claims for damages to property which may arise out of or result from the Contractor's operations under this Contract, whether such operations be by himself or by any Subcontractor or anyone directly or indirectly employed by any of them.

This insurance shall be written for not less than any limits of liability specified as part of this contract or required by law, whichever is the greater, and shall include contractual liability insurance as applicable to the Contractor's obligations under this contract. Unless otherwise specified, insurance limits shall be as follows:

- 1) Workmen's Compensation: Workers Compensation Insurance, including "Occupational Disease Act" requirements, must be maintained if required by law.
- 2) Public Liability (includes property damage and personal injury):
 - i. Not less than \$400,000 for any one person in a single accident or occurrence.
 - ii. Not less than \$2,500,000 for all claims arising out of a single occurrence.

7. SPECIFIC REQUIREMENTS

The Contractor shall perform work duties outside of normal office hours of 7:30 to 4:00. The lawn mowing service shall be done once a week during the normal mowing season unless otherwise directed by the Commission Representative- Mendi Allgood. The mowing shall be done the same day of the week each week to ensure consistency and aesthetic appearance. In the event of rain or seasonal storms, the contractor may contact Commission Representative for a reasonable solution to the mowing schedule. The Commission reserves the right to decrease the quantity of mowing or increase lawn care requirements based on the Seasonal or Commission's needs. The contractor may be requested to mow only upon notice from the Commission Representative in the event of a very dry season.

A. GRASS:

- 1. Mowers shall be adjusted so as to maintain an even cutting height of 2 ½ to 3 inches.
- 2. Contractor will not damage the lawn by scalping, cutting too low, rutting of slopes or any other action.

3. All mowing operations should be scheduled or completion in a continuous operation so areas do not result in an uneven appearance.

B. EDGING AND TRIMMING

1. All edging and trimming is to be completed during each visit this includes curbs, sidewalks, trees, shrubs, pond, fences and around the buildings.
2. The lawn mowing service provided will not damage trees, shrubs, fences, sidewalks, stairs, surrounding buildings or MoDOT fleet or employees vehicles.

D. GRASS CLIPPINGS

1. Grass clippings and debris resulting from the lawn mowing service on sidewalks, stairs and parking will be swept or blown off each visit.
2. Grass clippings are not to be thrown onto adjoining properties. Contractor will use common courtesy with neighbors to maintain good relations.
3. Grass clippings or other debris being thrown onto or against vehicles will not be tolerated and the contractor is responsible for any damage.
4. Grass clippings will not be thrown out onto roads etc.
5. Grass clippings may be mulched within the grass area when and where possible.
6. Grass clippings will be bagged or raked up if excessive.
7. If the grass clippings are bagged they shall be disposed of off site.

F. STREETS AND ROADS:

1. The Contractor will use caution to assure safety for the traveling public.
2. The Contractor will obey traffic laws.
3. Not to block Entrances or Exits to MoDOT District 7 with equipment

G. TRASH AND DEBRIS

1. Pick up trash in grass area and borders prior to mowing.
2. Pick up hedge apples, limbs and rubbish

8. GENERAL CONDITIONS

- A. The various tasks and schedules for performances of work, as outlined in this contract, are not to be taken as limiting. All work is to be performed in a manner satisfactory to and acceptable by the Commission. The intent of this contract is to provide for the District Office grounds being kept in first-class condition and maintains acceptable

appearance. A Performance Checklist has been included and will be completed by the commission monthly and/or when problems occur. Contract termination will be exercised when the quality of the performance is not satisfactory to the commission.

- B The contractor shall use no products, supplies or equipment, which are injurious or damaging to the environment, people or plants to which they are applied.

C. **INSPECTION AND ACCEPTANCE**

No service received by MoDOT pursuant to a contract shall be deemed accepted until MoDOT has had reasonable opportunity to inspect said service. All services which do not comply with the specifications and/or requirements or which are otherwise unacceptable may be rejected.

MoDOT will advise the contractor's contact person of any unsatisfactory performance verbally within one week via the attached "Performance Checklist". The contractor will have 3 – 5 business days to correct the problem. Repeated unsatisfactory performance will be forwarded to the contractor in writing with a copy of the completed performance checklist attached. At this time it will be recommended the current contractor be terminated, with the next lowest bidder (provided all contractual requirements are met by that contractor) be offered the remainder of the current contract.

9. **DEPARTMENT RESPONSIBILITIES**

- a. Process payments promptly.
- b. Payment will be made within 30 days of the end of the month or when invoice is received, whichever is later.
- b. Complete the attached "Performance Checklist" a minimum of once monthly or when infractions occur, and forward a copy to General Services Files.
- c. Advise the contractor in writing to infractions by the contractor or its employee(s) via the attached "Performance Checklist".
- d. Advise the contractor of any unsatisfactory performance verbally and via the attached "Performance Checklist" within one week.

10. **BIDDING REQUIREMENTS:**

- a. The contractor shall provide Lawn Mowing Service for the Missouri Department of Transportation District 7 Offices located at 3901 E. 32nd Street, Joplin MO 64804. in accordance with the terms and conditions set forth herein. The contractor must perform lawn mowing services as outlined in the "Scope of Work" and "Specific Requirements" in a manner satisfactory and acceptable to the Missouri Department of Transportation per the attached Performance Checklist.
- b. All interested bidders must attend the pre-bid conference at the time and date as specified in the Event Schedule (page 2).
- c. All interested bidders must have a minimum of 5 years experience in the commercial mowing industry. All bidders are required to have or have had a minimum of (3) commercial properties accounts with .5 acres or more ground surface that must be mowed. References for these properties must be included.

Unsatisfactory references or references that MoDOT are not able to verify will result in rejection of bid, and the bid will go to the next lowest bidder that meets this requirement.

- d. A sealed bid must be received no later than Date: **March 25, 2008 Time: 1:00 pm** at the Missouri Department of Transportation, 3901 East 32nd Joplin MO 64804. All bids will be opened at that time. Bids are to be returned in an envelope plainly marked **RFB D7-08-069 -Lawn Mowing Services** sealed bid.
 - e. The date specified for the return of bids/quote/proposals is a firm deadline and all bids and latest printed literature and detailed specifications of the equipment offered must be received at the designated office by that time. The Department does not recognize the **U.S. Mail, United Parcel Service, Air Express**, or any other organization, as its agent for purposes of accepting proposals. Any proposals arriving at the designated office after the deadline specified will not be considered.
 - f. The Missouri Department of Transportation reserves the right to reject any and all bids. Once the sealed proposals are opened, bidders cannot change, supplement, or withdraw the bids without the written permission of the Highway Commission.
1. **CONTRACT PERIOD:**
The contract begins on the first of the month following the "Notice to Proceed" and ends October 31, 2008, or when the mowing season expires, which ever comes first. The Mowing will cease upon the end of the mowing season and the contractor will be notified their services will no longer be needed for the remainder of the contract time. April 1, 2009 will begin the next mowing season. In the event the contract is extended for additional years, the next date of service will begin April 1, 2009.
 2. **CONTRACT EXTENSION:**
The Missouri Department of Transportation shall have the right, if mutually agreed to, to extend the contract period for two (2) one-year extensions.
 3. **PRICING: ALL PRICING SHOULD BE PROVIDED ON PAGE 11.**
 4. **MBE/WBE Certification:**
Executive order 98-21 directs state agencies to increase the participation of certified minority business enterprises (MBE) and women business enterprises (WBE) in state procurement. MBE/WBE certification is required to be considered an eligible MBE/WBE in meeting participation goals. If you qualify as a MBE or a WBE as defined in 37.020 RSMo, please mark the appropriate blank below.

MBE

WBE

BOTH

Vendors who are interested in obtaining information about MBE/WBE certification should contact: The Office of Equal Opportunity, 1-877-259-2963 (toll-free #) or visit the following Internet address: www.oa.state.mo.us/oeo/Certification_Program.html

PRICING PAGE

The bidder shall provide a firm fixed per month price for the original contract period and a maximum per month for each potential contract period for providing all services in compliance with the requirements of this Request For Bid. All costs associated with providing the required services shall be included in the stated price. In the event that D7 exercises its options to renew the contract for additional one-year period(s) pursuant to the applicable provisions outline in this document, the bidder shall provide the maximum increase or minimum decrease for each renewal period. The bidder is cautioned that the percentages shall be computed against the **ORIGINAL contract prices during renewal periods. Furthermore, the Bidder is advised that D7 does not automatically grant increases at the time of renewing the contract and that if an increase is requested, documentation of need must be provided at the time of renewal.**

MODOT DISTRICT 7 OFFICES - GROUNDS	ORIGINAL CONTRACT PERIOD <i>Firm Fixed Price</i>	1st RENEWAL PERIOD <i>Maximum Price</i>	2nd RENEWAL PERIOD <i>Maximum Price</i>
DESCRIPTION			
Lawn Mowing service For District 7 office grounds as described in bid and specifications	Price Per Week	Price Per Week	Price Per Week

PLEASE COMPLETE BELOW:

DATE: _____ RFB # _____

FIRM NAME: _____

ADDRESS: _____

TELEPHONE: _____ FAX NO: _____

BY (Signature) _____

TYPE/PRINT NAME: _____ TITLE: _____

BIDS MUST BE RETURNED IN A SEALED ENVELOPE CLEARLY MARKED AS

“RFB # D7-08-069 (Lawn Mowing District Office)” IN THE LOWER LEFT CORNER OF THE ENVELOPE.

The contract will be awarded to the lowest responsive bidder demonstrating the necessary knowledge, experience, and resources to accomplish the requirements set forth herein. In the event this contract is terminated prematurely, MoDOT reserves the right to offer the remaining contract period to the next lowest bidder provided that vendor meets all criteria set forth in the aforementioned sentence. The Missouri Department of Transportation reserves the right to reject any bid received as unacceptable for reasons which may include but not necessarily limited to: 1.) Receipt of any information, from any source, regarding unsatisfactory performance of similar services by the bidder within the past five (5) years; and/or 2.) failure by the bidder to demonstrate familiarity with the physical layout and condition of the grounds.

BIDDER'S EXPERIENCE AND RELIABILITY

1. Experience and reliability of the bidder's organization will be considered in the evaluation for awarding this contract. Therefore, the bidder is advised to submit adequate information to document successful and reliable experience in past performance. Complete the following forms to provide this information. Attach additional pages if necessary.

1	PRIOR SERVICES PERFORMED FOR:	
	Company Name	
	Street Address	
	City, State, Zip	
	CONTACT AT COMPANY FAMILIAR WITH YOUR PERFORMANCE:	
	Title	
	Telephone Number	
	Total # of Sq. Feet Mowed	
	Address or Description of Grounds	

2	PRIOR SERVICES PERFORMED FOR:	
	Company Name	
	Street Address	
	City, State, Zip	
	CONTACT AT COMPANY FAMILIAR WITH YOUR PERFORMANCE:	
	Title	
	Telephone Number	
	Total # of Sq. Feet Mowed	
	Address or Description of Grounds	

3	PRIOR SERVICES PERFORMED FOR:	
	Company Name	
	Street Address	
	City, State, Zip	
	CONTACT AT COMPANY FAMILIAR WITH YOUR PERFORMANCE:	
	Title	
	Telephone Number	
	Total # of Sq. Feet Mowed	
	Address or Description of Grounds	

4	PRIOR SERVICES PERFORMED FOR:	
	Company Name	
	Street Address	
	City, State, Zip	
	CONTACT AT COMPANY FAMILIAR WITH YOUR PERFORMANCE:	
	Title	
	Telephone Number	
	Total # of Sq. Feet Mowed	
	Address or Description of Grounds	

Bidders Name:

CONTRACT

This contract by and between the Missouri Department of Transportation and

(hereinafter referred to as "Contractor").

WITNESSETH THAT:

Contractor agrees to perform Lawn Mowing Services, in accordance with the proposal and specifications, as outlined in the Missouri Department of Transportation's District 7 RFB # D7-08-069 for MoDOT District 7 Offices, furnishing at the Contractor's own expense, all labor, materials (except where otherwise noted) equipment, and insurance as described in the plans and specifications.

The Request For Bid, Requirements, General Conditions, Specifications, Bid, Contract, Notice to Proceed, and any change orders issued in pursuance to this agreement are made a part hereof as though fully set out herein.

Contractor agrees that he is fully informed as to all conditions affecting the work to be done, the labor and materials to be furnished for the completion of this agreement, and the conditions existing at the job site, and that his information was secured by personal investigation and not in reliance of any estimates or statements of representatives of the department.

Contractor agrees to commence the work no later than the date specified in Notice to Proceed and to complete the same within the time specified in the bid or such additional time as may be allowed by MoDOT.

The work shall be done to the satisfaction of MoDOT and its District Engineer.

The Contractor shall receive and accept the compensation provided for in the proposal and in accordance with this contract.

This agreement shall be governed by the laws of the State of Missouri.

Executed by the Contractor on _____ 20 ____.

and executed by MoDOT on _____ 20 ____.

MISSOURI DEPARTMENT OF TRANSPORTATION

By: _____

Title _____

FIRM/COMPANY

By _____

Title _____

PREFERENCE IN PURCHASING PRODUCTS

DATE: _____

The bidders attention is directed to Section 34.076 RSMo 2000 which gives preference to Missouri corporations, firms, and individuals when letting contracts or purchasing products.

Bids/Quotations received will be evaluated on the basis of this legislation.

All vendors submitting a bid/quotation must furnish ALL information requested below.

FOR CORPORATIONS:

State in which incorporated:

FOR OTHERS:

State of domicile:

FOR ALL VENDORS:

List address of Missouri offices or places of business:

THIS SECTION MUST BE COMPLETED AND SIGNED:

FIRM NAME:

ADDRESS:

CITY: _____ **STATE:** _____ **ZIP:** _____

BY (signature required):

Federal Tax I.D. #: _____ **if no Federal Tax I.D. # - list Social Security #:** _____

NOTE: For bid/quotation to be considered, the "Preference in Purchasing Products" form must be on file in the General Services (Procurement) Division and must be dated in the current calendar year.

PERFORMANCE CHECKLIST

This form is to be completed once monthly after contract start date by Facilities Director or appointee. Upon completion the form shall be forwarded to Chris Stephens in General Services, to be included in Contract No. D7-08-069 Document File. This form is to ensure compliance and consistency in the performance of the Lawn Mowing Services. Any infractions by the contracted Lawn Mowing Service provider or their personnel shall be recorded on this form.

Please rank each task with a number from 1-10, 1 being a poor job where as any of the identified criteria is not being met and 10 being an excellent job with the identified criteria being met or exceeded.

Lawn Mowing Checklist

Score

- [] Damage- If any damage either through lawn scalping, cutting too low, rutting of slopes or any other action.
- [] Mowing – Are the grounds mowed on time each week? Is the height of the grass being mowed no more that 3” high and no less than 2-1/2”?
- [] Edging- Is all edging and trimming completed fully per the specifications outlined in this contract?
- [] Damage- Any damage to trees, shrubs, pond, fences, surrounding buildings, MoDOT fleet or employee’s vehicles?
- [] Appearance- Any grass clippings and/or debris on sidewalks, stairs or parking area? Has all of grass clippings and debris been disposed of properly and not on adjoining property lines?
- [] Has any grass clippings or debris been left on vehicles in the middle of the roads or driveways?
- [] Has all grass clippings or debris been mulched or raked and bagged according to the specifications included in this bid? Have all bags been removed and disposed of off site?
- [] Has all grass clippings or debris been mulched or raked and bagged according to the specifications included in this bid? Have all bags been removed and disposed of off site?
- [] Has any complaints been made from owners of vehicles traveling on the roads boarding MoDOT property line?
- [] Has any complaints been made of equipment blocking entrances or exits?
- [] Was all trash been picked up prior to mowing? Has all hedge apples, limbs or rubbish been removed from the grounds?

_____ **Total Points;** 100 Points Possible. Anything below 90 points total will be evaluated by MoDOT for probable contract termination.

Comments or Problems _____

Lawn Mowing Checklist- cont

**MoDOT District 7 Main Office-3901 E. 32nd Street, Joplin MO 64804 -
Contract D7-08-069**

Name of Vendor _____

Evaluator

Signature _____

Title _____

Date _____

Any Recommendations: _____

Due Dates:
May 1, 2008 June 1, 2008 July 1, 2008 August 1, 2008 Sept 1, 2008

Final Score of All Evaluation Criteria

POOR (non acceptable)

[]0-89
(Consider cancellation)

EXCELLENT

[]90-100
(Recommend Extension)

**IF NOT SUBMITTING A QUOTE, PLEASE COMPLETE AND RETURN THE FOLLOWING
“NO QUOTE FORM” TO ASSIST THE PROCUREMENT STAFF IN OUR PROCESS
EVALUATIONS.**

THANK YOU

NO QUOTE

Date: _____

TO: Missouri Department of Transportation – District 7
General Services (Procurement) Division
3901 E. 32nd Street
Joplin, MO 64804
(417) 629-3226-Fax

FROM: _____

Our Company is submitting “No Quote” on RFQ# _____ for the reason(s) indicated

- ☐ Product or service is not available or cannot meet the required specifications
- ☐ Other obligations - cannot make required deadline
- ☐ The delivery point or work location is outside of our territory or coverage/service area
- ☐ Other – Please explain below:

Company Contact Person: _____ Phone # _____

- ☐ Please keep our name on the bidder’s list for future opportunities on this product or service.
- ☐ Please remove our name for your bidder’s list for this product service

STANDARD SOLICITATION PROVISIONS

- a. The Missouri Department of Transportation (MoDOT) reserves the right to reject any or all bids/quotes/proposals, and to accept or reject any items thereon, and to waive technicalities. In case of error in the extension of prices in the bid/quote/proposal, unit prices will govern.
- b. All bids/quotes/proposals must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
- c. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown, within the State of Missouri.
- d. Time of delivery is a part of the consideration and, if not otherwise stated in the solicitation documents, must be stated in definite terms by the Bidder/Offeree and must be adhered to. If time varies on different items, the Bidder/Offeree shall so state.
- e. If providing bids/quotes/proposals for commodities, the Bidder/Offeree will state brand or make on each item. If bidding or proposing other than the make, model or brand specified, the manufacturer's name, model number or catalog number must be given.
- f. **For bids/proposals of \$25,000 or more**, no bids/proposals by telephone, telegram or telefax will be accepted. If provided, these bids/proposals should be returned in the MoDOT solicitation return envelope.
- g. If a solicitation return envelope is provided by MoDOT, the bid/quote/proposal should be returned in the envelope provided with the Bid/RFQ/RFP Request Number plainly indicated thereon.
- h. The date specified for the returning of bids/quotes/proposals is a firm deadline and all bids/quotes/proposals must be received at the designated office by that time. The Department does not recognize the U.S. Mail, Railway Express Agency, Air Express, or any other organization, as its agent for purposes of accepting proposals. All proposals arriving at the designated office after the deadline specified will be rejected.

GENERAL TERMS AND CONDITIONS

General Performance

- a. This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Contractor agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT, and MoDOT is to have no direction or control over the employees used by the Contractor in performance of the work.

Deliveries

- a. Unless otherwise specified on the solicitation documents or purchase order, suppliers shall give at least 24 hours advance notice of each delivery. Delivery will only be received between the hours of 8:00 a.m. to 3:00 p.m., Monday through Friday. Material arriving after 3:00 p.m. will not be unloaded until the following workday. No material will be received on Saturday, Sunday or state holidays.
- b. If the prices bid herein include the delivery cost of the material, the Contractor agrees to pay all transportation charges on the material as FOB - Destination. Freight costs must be included in the unit price bid and not listed as a separate line item.
- c. Any demurrage is to be paid by the Contractor direct to the railroad or carrier.

Nondiscrimination

- a. The Contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- b. All solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of the Contractor's obligations under this contract and the Regulations, will be relative to nondiscrimination on the grounds of race, color, or national origin.
- 1) **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MoDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,
 - ii. cancellation, termination or suspension of the contract, in whole or in part.

Contract/Purchase Order

- a. By submitting a bid/quote/proposal, the Bidder/Offeree agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's proposal and/or submitted pricing, and (3) the MHTC's acceptance of the proposal and/or bid by purchase order or post-award contract.
- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized purchase order and/or notice to proceed.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the Contractor and the duly authorized representative of the MHTC, by a modified purchase order prior to the effective date of such modification. The Contractor expressly and explicitly

understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

Subcontracting

a. It is specifically understood that no portion of the material or any interest in the contract, shall be subcontracted, transferred, assigned or otherwise disposed of, except with the written consent of MoDOT. Request for permission to subcontract or otherwise dispose of any part of the work shall be in writing to MoDOT and accompanied by documentation showing that the organization which will perform the work is particularly experienced and equipped for such work.

b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the contracted work and the completion of the work within the specified time.

c. All payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

Invoicing and Payment

a. MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Federal Excise Tax Exemption Certificate will be furnished to the successful Bidder/Offeror upon request.

b. Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.

c. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.

d. The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the Contractor's expense.

e. The MHTC reserves the right to purchase goods and services using the state-purchasing card.

Applicable Laws and Regulations

a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract.

b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MoDOT a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.

1) Prior to the issuance of a purchase order and/or notice to proceed, all **out-of-state** Contractors **providing services** within the state of Missouri must submit to MoDOT a copy of their current Transient Employer Certificate from the Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.

c. The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws and Executive Order 07-13 for work performed in the United States.

d. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.

Preferences

a. In the evaluation of bids/quotes/proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.

b. By virtue of statutory authority, RSMo. 34.076 and 34.350 to 34.359, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.

1) If attached, the document entitled **"PREFERENCE IN PURCHASING PRODUCTS"** should be completed and returned with the solicitation documents.

2) If attached, the document entitled **"MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT"** should be completed and returned with the solicitation documents. **Applies if bid is Twenty-Five Thousand Dollars (\$25,000.00) or more.**

c. In the event of a tie of low bids, the MHTC reserves the right to establish the method to be used in determining the award

Remedies and Rights

a. No provision in the contract shall be construed, expressly or implied, as a waiver by the MHTC of any existing or future right and/or remedy available by law in the event of any claim by the MHTC of the Contractor's default or breach of contract.

b. The Contractor agrees and understands that the contract shall constitute an assignment by the Contractor to the MHTC of all rights, title and interest in and to all causes of action that the Contractor may have under the antitrust laws of the United States or State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or produced by the Contractor in the fulfillment of the contract with the MHTC.

c. In the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request MoDOT to enter into such litigation to protect the interests of the MHTC, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Cancellation of Contract

a. The MHTC may cancel the contract at any time for a material breach of contractual obligations or for convenience by providing the Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.

b. If the MHTC cancels the contract for breach, the MHTC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the MHTC deems appropriate and charge the Contractor for any additional costs incurred thereby.

Bankruptcy or Insolvency

a. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assigned the benefit or creditors, the Contractor must notify MoDOT immediately. Upon learning of any such actions, the MHTC reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.

Inventions, Patents, and Copyrights

a. The Contractor shall defend, protect, and hold harmless the MHTC, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the Contractor's performance or products produced under the terms of the contract.

Inspection and Acceptance

a. No equipment, supplies, and/or services received by MoDOT pursuant to a contract shall be deemed accepted until MoDOT has had reasonable opportunity to inspect said equipment, supplies, and/or services.

b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.

c. The MHTC reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.

d. The MHTC's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the MHTC may have.

Warranty

a. The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by MoDOT, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.

b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the MHTC's acceptance of or payment for said equipment, supplies, and/or services.

Status of Independent Contractor

a. The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

Indemnification

a. The Offeror shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Offeror's performance of its obligations under this Agreement.

SPECIAL TERMS AND CONDITIONS

Insurance

a. The Contractor shall purchase and maintain such insurance as will protect him from claims under workmen's compensation acts and other employee benefit acts, from claims for damages because of bodily injury, including death, and from claims for damages to property which may arise out of or result from the Contractor's operations under this Contract, whether such operations be by himself or by any Subcontractor or anyone directly or indirectly employed by any of them.

b. This insurance shall be written for not less than any limits of liability specified as part of this contract, or required by law, whichever is the greater, and shall include contractual liability insurance as applicable to the Contractor's obligations under this contract. Unless otherwise specified, insurance limits shall be as follows:

3) Workmen's Compensation: Workers Compensation Insurance, including "Occupational Disease Act" requirements, must be maintained if required by law.

- 4) Public Liability (includes property damage and personal injury):
 - iii. Not less than \$400,000 for any one person in a single accident or occurrence.
 - iv. Not less than \$2,500,000 for all claims arising out of a single occurrence.
- 3) Special Hazard Insurance: As required.
- 4) Builder's Risk: Not less than the full Contract amount.

Proposal/Bid Guaranty/Contract Bond

- a. Each proposal shall be accompanied by a Bid Bond, Certified Check, Cashier's Check or Bank Money Order payable to the Director of Revenue – Credit State Road Fund for an amount equal to Five Percent (5%) of the amount of the BID submitted. This is to act as a guarantee that the bidder, if awarded the contract, will furnish an acceptable performance and payment bond (Contract Bond) or a cashier's check, a bank money order or a certified check made payable to "Director of Revenue--Credit State Road Fund" in an amount equal to One Hundred (100%) of the contract price.
- b. If a BID BOND is used (in lieu of a certified check, cashier's check, or bank money order), it must be in the form provided and executed by the bidder as principal and by a surety company authorized to do business in the State of Missouri as surety. The agent executing the same on behalf of the surety company must attach a current Power of Attorney setting forth his authority to execute the bond involved.
- c. Certified Checks, Cashier's Checks or Bank Money Orders of unsuccessful bidders will be returned as soon as the award is made. The checks or bank money orders of the successful bidder(s) will be retained until the contract is executed and a satisfactory Performance and Payment (Contract Bond) is furnished. Bid Bonds will not be returned except on specific request of the bidder.

Information and Reports

- a. The Contractor shall provide all information and reports required by the Regulations, or Directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Missouri Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or Directives. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the Missouri Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

Permits, Licenses and Safety Issues

- a. The contract price shall include any necessary permits and licenses required by law incidental to the work. Local ordinances requiring building permits are not applicable to state agencies.
- b. The Contractor will comply with local laws involving safety in the prosecution of the work.

Award

- a. Award of this bid/quote/proposal will be made on an "All Or Nothing" basis using the "lowest and best" principle of award.

Failure to Execute Contract

- a. Failure to execute the contract and file acceptable performance payment (Contract Bond) or cashier's check, bank money order or certified check within **15 days** after the contract has been mailed to the bidder shall be just cause for the cancellation of the award and the forfeiture of the proposal guaranty. Award may then be made to the next lowest responsible bidder, or the work may be re-advertised and performed under contract or otherwise, as the Commission may decide. No contract shall be considered effective until it has been executed by all parties thereto.

Notice to Proceed

- a. Within **30 days** after the execution of the contract, a "**Notice to Proceed**" will be issued by the Department. A purchase order will be attached to the "Notice to Proceed," which will specify the date or dates that the Contractor can start delivery, roadway or stockpile delivery and will also include the completion dates. These dates will be in accordance with the dates shown in the proposal.

Cancellation of Contract

- a. If the Contractor/supplier fails to carry out the performance of the work with sufficient workmen and equipment to insure the completion of the delivery within the time specified or becomes insolvent or is adjudicated a bankrupt or commits any act of bankruptcy or insolvency or allows any final judgment to stand against him for a period of ten (10) days, the Missouri Department of Transportation may give notice in writing by registered mail to the Contractor/supplier and the surety of such delay, neglect or default.
- b. If, within ten (10) days after such notice the Contractor/supplier does not proceed to remedy to the satisfaction of the Department's representatives the faults specified in said notice, or the surety does not proceed to take over the deliveries, the Department shall have full power and authority, without impairing the obligation of the Contractor/supplier under the contract or the surety under the bond, to take over the completion of the work and arrange for the shipment of any materials necessary to complete the work and the Contractor/supplier and the surety will be responsible for any additional costs incurred by the Department in obtaining the completion of the deliveries.